

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|-----------------------|---|------------------------------------|
| ORLANDO BAEZ, |) | |
| |) | Civil Action No. 09 - 1149 |
| Plaintiff, |) | |
| |) | District Judge Terrence F. McVerry |
| v. |) | |
| |) | |
| STANLEY FALOR, et al, |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

On November 6, 2006, Plaintiff filed his original complaint alleging that various prison officials and doctors at SCI-Greene and SCI-Graterford failed to provide him with necessary medical treatment for lupus and rectal bleeding. On January 23, 2007, the court granted Plaintiff's motion for appointment of counsel and placed the action in administrative suspense pending appointment of counsel (ECF No. 13). On January 25, 2007, Prison officials from SCI-Greene filed a motion to transfer claims against them to the Western District of Pennsylvania. The court removed the action from administrative suspense and ordered a hearing on a rule to show cause why Plaintiff's claims against all defendants associated with SCI-Greene should not be severed and transferred. Counsel was appointed for Plaintiff and the court deferred decision on transfer of claims against SCI-Greene defendants to provide Plaintiff an opportunity to file a counseled response.

On October 16, 2007, Defendants Felipe Arias, Koseriowski, Eakin, Cusick, Stefanic, Harmon, Crup, and Masino filed a motion to dismiss. On October 17, 2007, Plaintiff filed a motion for transfer to SCI-Graterford. The court denied the motion to transfer without prejudice

and gave Plaintiff leave to file a counseled amended complaint. On March 24, 2008, Plaintiff filed a motion for an immediate preliminary injunction regarding his medical treatment at SCI-Greene. On May 6 and 7, 2008, the court held evidentiary hearings on Plaintiff's motion for preliminary injunction where Plaintiff, Dr. Jin, and Dr. Falor testified. After the evidentiary hearings, the parties took a deposition of Dr. Seaman and provided a transcript to the court. In June of 2008, the parties submitted proposed findings of fact and conclusions of law.

On July 22, 2008, Plaintiff, through counsel, filed an Amended Complaint (ECF No. 77). After the August, 2008 teledermatology consult with Dr. Schleicher, Plaintiff requested that the court reopen the record for the injunction to admit both Dr. Schleicher's report and Plaintiff's letter complaining about the consult. The court granted Plaintiff's petition and ordered the record opened for supplementary evidentiary submissions through March 6, 2009, to be followed by supplementary briefing by all parties on Plaintiff's motion for injunctive relief. On May 4, 2009, the Court denied Plaintiff's request for preliminary injunctive relief finding that Plaintiff was receiving treatment in excess of the minimum required by the Eighth Amendment (ECF No. 98). On July 23, 2009, Plaintiff's claims arising from his incarceration at SCI-Greene were transferred to this Court (ECF No. 108). It was referred to a magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

On November 24, 2009, Defendants Folino and Burks filed a Motion for Judgment on the Pleadings (ECF No. 122). On August 23, 2010, Plaintiff filed a response to the pending Motion for Judgment on the Pleadings containing forty 40 exhibits totaling over 270 pages of attached documents (ECF No. 137).

On September 21, 2011, the Magistrate Judge filed a Report and Recommendation (ECF No. 200) recommending that the Motion for Judgment on the Pleadings (ECF No. 122) be granted. Plaintiff did not file any objections to the Report and Recommendation.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 8th_ day of November, 2011;

IT IS HEREBY ORDERED that the Motion for Judgment on the Pleadings filed by Defendants Folino and Burks (ECF No. 122) be granted.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 200) is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the case is remanded back to the magistrate judge for all further pre-trial proceedings.

By the Court:

s/Terrance F. McVerry
United States District Judge

cc: Orlando Baez
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SCI GREENE
Waynesburg, PA 15370